

## **ZIMMERMAN, LEVI & KORSINSKY, LLP**

### **THE FIRM**

Zimmerman, Levi & Korsinsky, LLP is a national law firm that primarily concentrates in the areas of securities, antitrust, consumer and other class actions. Our firm is also active in patent enforcement litigation. We represent both plaintiffs and defendants and are currently involved in dozens of class action lawsuits and patent enforcement litigations in both state and federal courts across the country.

One of the members of our firm has been involved in nearly one hundred class action litigations and has obtained multi-million dollar recoveries in class action lawsuits. We have also achieved significant recoveries on behalf of clients in numerous patent enforcement cases. Our firm has offices in New York and New Jersey and is comprised of three partners: Jean-Marc Zimmerman, Joseph Levi and Eduard Korsinsky.

### **OUR EXPERIENCE**

Set forth on the following pages is information relating to the qualifications of the firm. Section I identifies the class action lawsuits filed recently by our firm, Section II describes the experience of the members of our firm, and Section III describes our firm's experience in patent enforcement litigation.

#### **I. CURRENT CLASS ACTIONS**

1. *Pfeiffer v. Bjurman, Barry & Associates, et al.*, 03 CV 9741, U.S. District Court, Southern District of New York.
2. *Zucker v. Aim Advisors, Inc., et al.*, H-03-5653, U.S. District Court, Southern District of Texas.
3. *Lieber v. Invesco Funds Group, Inc. et al.*, H-03-5744, U.S. District Court, Southern District of Texas.
4. *Pfeiffer v. The Dreyfus Corp., et al.*, 03 CV 9740, U.S. District Court, Southern District of New York.
5. *Pfeiffer v. Golden State Vintners, Inc., et al.*, CA 305-N, Court of Chancery of the State of Delaware County of New Castle.

6. *Chiarenza v. Dover Investments Corp., et al.*, CA 203-N, Court of Chancery of the State of Delaware County of New Castle.
7. *Nekritz v. Canary Capital Partners, et al.*, U.S. District Court for the District of New Jersey.
8. *In re Biovail Corp. Securities Litigation*, Master File No. 03-CV-8917, U.S. District Court, Southern District of New York.
9. *Mintz v. Putnam American Government Income Fund, et al.*, 03-CV-9149, U.S. District Court, Southern District of New York.
10. *Weiser v. PBHG Growth Fund, et al.*, U.S. District Court for the Eastern District of Pennsylvania.
11. *Mintz v. Morgan Stanley 21st Century Trend Fund, et al.*, 03-CV-9150, U.S. District Court, Southern District of New York.
12. *Pfeiffer v. Nortel Networks Corp., et al.*, 04-CV-02233, U.S. District Court, Southern District of New York.
13. *Korsinsky v. Royal Dutch Petroleum Company, et al.*, U.S. District Court for the District of New Jersey.
14. *Unger v. JetBlue Airways Corp., et al.*, U.S. District Court, Southern District of Florida, Miami Division.
15. *Pfeiffer v. Whitehall Jewelers, Inc., et al.*, 04C-1285, U.S. District Court, Northern District of Illinois.
16. *Trebitsch v. Sonus Networks, et al.*, 04-CV-10307, U.S. District Court for the District of Massachusetts.
17. *Pfeiffer v. Friedman's, Inc., et al.*, 1:03-cv-3564, U.S. District Court, Northern District of Georgia.
18. *Peltz v. El Paso Corp., et al.*, H-04-0701, U.S. District Court, Southern District of Texas. Lead Counsel.
19. *Trebitsch v. Wave Systems Corp., et al.*, 04-266, U.S. District Court For the District of New Jersey.

## II. THE ATTORNEYS

**EDUARD KORSINSKY**, admitted to bar, 1996, New York; New Jersey (1996); United States District Court, Southern District of New York (1998); United States District Court, Eastern District of New York (1998). *Education*: Brooklyn College, B.S., *Summa cum laude*; Brooklyn Law School, J.D.; New York University School of Law, LL.M, Master of Law(s) Taxation. Mr. Korsinsky, through association with prior firms, has been representing clients in class action lawsuits since 1997. Cases which Mr. Korsinsky has litigated and/or in which his prior firm(s) served as lead counsel or co-lead counsel include: *In re NCS Healthcare, Inc. Securities Litigation*, CA 19786, Court of Chancery of the State of Delaware, County of New Castle (case settled for approximately \$100 million); *Paraschos, et al. v. YBM Magnex International, Inc., et al.*, No. 98-CV-6444, U.S. District Court, Eastern District of Pennsylvania (United States and Canadian cases settled for \$85 million Canadian); *In re Quintiles Transnational Corp., et. al.*, 02 CVS 5348, State of North Carolina, County of Durham; *Key Equity Investors, Inc., et. al. v. Lexent Inc., et al.*, CA 20177, Court of Chancery of the State of Delaware County of New Castle; *In re Livent, Inc. Securities Litigation*, 98-CIV-5686 (RWS), U.S. District Court, Southern District of New York.; *In re Shopping.com, Inc. Securities Litigation*, No. C-98-3255-ER (BQRx), U.S. District Court, Central District of California. (\$4.5 million settlement); *In re Advanced Health Corporation Securities Litigation*, 98-CV-4647 (BDP), U.S. District Court, Southern District of New York (settlement of \$2,954,790 plus attorneys' expenses); *In re Schein Pharmaceutical, Inc. Securities Litigation*, Master Docket No. 98-4311 (JCL), U.S. District Court, District of New Jersey (\$8 million settlement); *In re CyberCare Inc. Securities Litigation*, Case No.: 00-8404-CIV-RYSKAMP/VITUNAC, U.S. District Court, Southern District of Florida (settled for \$3.1 million in cash plus 4,000,000 shares in CyberCare stock); *In re ThermoRetec Securities Litigation*, No. 17601-NC, Court of Chancery of the State of Delaware, New Castle County (settled for \$750,000 plus expenses); *Adler, et. al. v. Ribozyme, et. al.*, No. 99-B-2235, U.S. District Court, District of Colorado (settled for \$3 million); *Lacoff v. Buena Vista Publ., Inc.*, No. 606005/98, Supreme Court of the State of New York, New York County, 2000 N.Y. Misc. LEXIS 25, January 28, 2000 (co-lead counsel with former New York State Attorney General G. Oliver Koppel)(settled for non-cash consideration valued at several million dollars); *Pavel v. E-Stamp Corp.*, CV 798624, Superior Court of the State of California, County of Santa Clara (settled for non-cash consideration valued at approximately \$2.2 million); *Chiarenza v. Curtis International Ltd.*, 01 Civ. 5381 (MGC), U.S. District Court, Southern District of New York (settled for approximately \$615,000).

**JEAN-MARC ZIMMERMAN**, admitted to the bar 1989, New Jersey: 1990, New York; Connecticut 1990; United States Patent and Trademark Office, 1993; United States District Court, District of New Jersey (1989); United States District Court, Southern District of New York (1990); United States District Court, Eastern District of New York (1990). *Education*: University of Delaware, B.E.E. (1985); Seton Hall

Law School, J.D. (1989), *Seton Hall Law Review*. In addition to his class action practice, Mr. Zimmerman has successfully represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications and information processing and has been instrumental in obtaining substantial awards and settlements.

**JOSEPH E. LEVI**, admitted to bar, 1996, New York; New Jersey (1996); United States Patent and Trademark Office (1997), United States District Court, Southern District of New York (1997); United States District Court, Eastern District of New York (1997). *Education*: Polytechnic University, B.S. (1984), *Summa cum laude*, MS (1986); Brooklyn Law School, J.D. (1995), *Magna cum laude*. In addition to his class action practice, Mr. Levi has successfully represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications and information processing and has been instrumental in obtaining substantial awards and settlements.

### **III. PATENT ENFORCEMENT LITIGATION**

Our firm has successfully enforced and licensed patent portfolios in a variety of technologies such as data compression (U.S. Patent Nos. 4,472,747 and 4,636,876), information processing (U.S. Patent Nos. 5,258,855, 5,369,508, 5,625,465, 5,768,416 & 6,094,505), document imaging (U.S. Patent No. 5,191,525), communication devices (U.S. Patent Nos. 4,543,450, 4,603,320, 4,686,506 and 4,972,470), telephony (U.S. 4,475,009) and virus detection (U.S. Patent No. 4,975,950 and 5,121,345). Listed below are patent enforcement cases that are either pending or that the firm has successfully concluded.

1. *Digital Development Corp v. International Business Machines*, 03 CV 2905 (JGK), U.S. District Court, Southern District of New York.
2. *Digital Development Corp v. ASUS Computer International*, 04 CV 2158 (DLC), U.S. District Court, Southern District of New York.
3. *Audio Compression Inc. v. Sony Corporation*, 03-803 (WGB), U.S. District Court for the District of New Jersey.
4. *Audio Compression Inc. v. TDK Corporation*, 02 CV 2920 (ARL), U.S. District Court, Eastern District of New York.
5. *Forward Technologies LLC v. SBC Corp.*, C 03 1254 (MMC), U.S. District Court, Northern District of California

6. *Acticon Technologies LLC v. TDK Corporation*, U.S. District Court, Eastern District of New York.
7. *Acticon Technologies v. Psion PLC*, 02 CV 2471 (MGC), U.S. District Court, Southern District of New York.
8. *Millennium LP v. Kofax Image Products*, CV 02 3049 (JS), U.S. District Court, Eastern District of New York.
9. *Millennium LP v. AnyDoc Software Inc.*, 03 CV 3899 (GBD), U.S. District Court, Southern District of New York.
10. *Millennium LP v. Dakota Imaging Inc.*, MJG-04-7073, U.S. District Court for the District of Maryland.
11. *Millennium LP v. Datacap Inc.*, 03 CV 1840 (JES), U.S. District Court, Southern District of New York.
12. *Millennium LP v. Fairfax Imaging*, 2:02 CV 5141 (JCL), U.S. District Court for the District of New Jersey.
13. *Millennium LP v. Filenet Corp.*, 03 CV 7311 (NRB), U.S. District Court, Southern District of New York.
14. *Millennium LP v. Readsoft Inc.*, 02 CV 0152 (JFS), U.S. District Court, Southern District of California.
15. *Millennium LP v. Recognition Research Inc.*, 03 CV 1839 (SHS), U.S. District Court, Southern District of New York.
16. *Millennium LP v. Top Image Systems LTD.*, 02 CV 10102 (LTS), U.S. District Court, Southern District of New York.

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# BERMAN DeVALERIO PEASE TABACCO BURT & PUCILLO

## THE FIRM

The law firm of Berman DeValerio Pease Tabacco Burt & Pucillo prosecutes class actions nationwide on behalf of victims of securities and antitrust law violations. Founded in 1982, Berman DeValerio has 35 attorneys in offices in Boston, San Francisco, and West Palm Beach. The firm holds leadership positions in dozens of securities and antitrust actions around the country.

The attorneys at Berman DeValerio have prosecuted hundreds of class actions on behalf of defrauded individuals and institutions, recovering billions of dollars overall for clients. In addition to the financial recoveries, the firm has achieved significant changes in corporate governance.

The firm acts as monitoring, evaluation, and/or litigation counsel to more than 35 public pension funds, including some of the nation's largest. In antitrust matters, the firm's institutional clients include the State of Florida and Aetna U.S. Healthcare, Inc.

## RESULTS

### Securities Settlements

The firm has negotiated substantial settlements for its clients. The following is a sample of significant results in securities litigation:

Berman DeValerio acted as sole lead counsel in a case against Enterasys Networks, Inc., in which the Los Angeles County Employees' Retirement Association was lead plaintiff. In Re: Enterasys Networks, Inc. Securities Litigation, 02-CV-71 (D.H.H.) settled in October 2003 for \$17 million in cash, stock valued at \$33 million, and major corporate governance improvements that opened the computer networking company to greater public scrutiny. Changes included requiring the company to back a proposal to eliminate its staggered board of directors, allowing certain large shareholders to propose candidates to the board, and expanding the company's annual proxy disclosures. The settlement received court approval in December 2003.

In In Re: Warnaco Group, Inc. Securities Litigation, 00civ6266 (LMM) (S.D.N.Y.), the firm negotiated a \$12.85 million settlement against several current and former top officers of the company. The firm represents the Fresno County Employees Retirement Association, a co-lead plaintiff in the case. The settlement is awaiting final approval.



The firm represented the Florida State Board of Administration as co-lead plaintiff in In Re: Sykes Enterprises, Inc. Sec. Litig., Case No. 8:00-CV-212-T-26F (M.D. Fla.), in which Sykes Enterprises was accused of using improper means to match the company's earnings with Wall Street's expectations. The firm negotiated a \$30 million settlement, which received final approval in March 2003.

The firm served as co-lead counsel in In Re: Thomas & Betts Securities Litigation, Civil Action No. 2:00cv2127 (JPM) (W.D. Tenn.), which settled in part for \$46.5 million in 2002. Plaintiffs in this action had accused the company and other defendants of issuing false and misleading financial statements for 1996, 1997, 1998, 1999 and the first two quarters of 2000. The case against KPMG, the company's auditor, is ongoing.

A member of the executive committee representing plaintiffs, Berman DeValerio secured a \$45 million settlement in Giarraputo v. UNUMProvident Corp., cv99-301-P-C (D. Me.), a lawsuit stemming from the 1999 merger that created UNUMProvident. Shareholders of both predecessor companies accused the insurer of misleading the public about its business condition before the merger. The settlement received final approval in June 2002.

In In Re: Critical Path, Inc. Securities Litigation, C-01-0551-WHA (N.D. Ca.), the firm negotiated a \$17.5 million recovery to settle claims of accounting improprieties at a California software development company. The Firm, representing the Florida State Board of Administration, was appointed sole lead counsel in August of 2001. Allegations of serious fraud arose shortly after the spectacular collapse of Critical Path's stock price and certain former officers were indicted for stock fraud. The difficulties facing the lead plaintiff related to marshalling all available resources to secure a recovery for the class as Critical Path teetered on bankruptcy. Following arduous negotiations, the case settled for \$17.5 million. The settlement was approved in June 2002.

As one of co-lead counsel in In Re: Molten Metal Technology Inc. Sec. Litig., No. 97-10325-MLW(D. Mass.) and Axler v. Scientific Ecology Group, Inc., et al., No. MLW (D. Mass.), the Boston office played a key role in settling the actions after Molten Metal and several affiliates filed a petition for bankruptcy reorganization in Massachusetts. The individual defendants and the insurance carriers in Molten Metal agreed to settle for \$11.91 million. After the bankruptcy trustee objected to the use of insurance proceeds for the settlement, the parties agreed to pay the trustee \$1.325 million of the Molten Metal settlement. The parties also agreed to settle claims against Scientific Ecology Group for \$1.25 million, giving Molten Metals investors \$11.835 million.

In In Re: Interspeed, Inc. Sec. Litig., 00-CV-12090-EFH (D. Mass.), the Boston office served as co-lead counsel and negotiated a \$7.5 million settlement on behalf of the class. The settlement was reached in an early stage of the proceedings largely as a result of the financial condition of Interspeed and the need to salvage a recovery from its available assets and insurance.



In In re Avant, Sec. Litig., 96 CV 20132 (N.D. Cal.), Avant!, a software company, was charged with securities fraud in connection with its alleged theft of a competitor's software code, which Avant! incorporated into its flagship software product. Serving as lead counsel, the Firm recovered \$35 million for the class. The recovery resulted in each eligible class claimant receiving almost 50% of losses net of attorneys' fees and expenses.

The Boston office, as co-lead counsel in In Re: Summit Technology Sec. Litig., No. 96-11589-JLT (D. Mass.), negotiated a settlement consisting of \$10 million for the benefit of the class. The action was intensely litigated for four years, resulting in motion practice on the adequacy of the complaint and the issue of class certification, the review and analysis of over a million pages of documents produced by the defendants and 40 third-party witnesses, the depositions of 40 witnesses, the exchange of nine expert reports and the filing of and responding to nine motions for summary judgment.

In In Re: Prison Realty Sec. Litig., 3:99 CV 0452 (In Re: Old CCA Sec. Litig.) 3:99 CV 0458 (M.D. Tenn.). The Firm represented the former shareholders of Corrections Corporation of America, which merged with another company to form Prison Realty Trust, Inc. The action charged that the registration statement issued in connection with the merger contained untrue statements. The Firm successfully countered arguments that the class' claims for securities fraud were released in prior litigation involving the merger and overcame motions to dismiss. It negotiated a global settlement of approximately \$120 million in cash and stock for this case and other related litigation.

The Boston office served as co-lead counsel in Gelfer v. Pegasystems, Inc., et al., 98 CV 12527 (D. Mass.) and negotiated a settlement valued at \$12.5 million consisting of \$4.5 million in cash and \$7.5 million in shares of the company's stock or cash at the company's option.

In In Re: Sybase II, Sec. Litig., C-98-0252-CAL (N.D. Cal.), Sybase was charged with inflating its quarterly financial results by improperly recognizing revenue at its wholly owned subsidiary in Japan. Acting as co-lead counsel, attorneys in the California office obtained a \$28.5 million settlement.

In In Re: UCAR International, Inc. Sec. Litig., 98-CV-0600-JBA (D. Conn.), the Firm represented the Florida State Board of Administration as the lead plaintiff in a securities claim arising from an accounting restatement. The case settled for \$40 million cash and the requirement that UCAR appoint an independent director to its Board of Directors. The settlement was approved in 2000 and the lead plaintiff's recommended nominee is currently serving on the board. It was one of the first securities class actions to achieve such significant corporate governance relief.

The firm served as sole lead counsel in the class action In Re: Centennial Technologies Litigation, No. 97-10304-REK (D. Mass.) involving a massive accounting scandal that shot down the company's high-flying stock. The Boston office negotiated a settlement

that permitted a turnaround of the company and provided a substantial recovery for class members. The firm negotiated changes in corporate practice, a strengthening of internal financial controls, and obtained 37% of the company's stock for the class. In addition, the firm recovered \$20 million from Coopers & Lybrand, Centennial's auditor at the time – the largest settlement with an auditor in a shareholder class action in New England and among the largest in the nation. The firm also recovered \$2.1 million from defendants Jay Alix & Associates and Lawrence J. Ramaekers for a total recovery of more than \$35 million for the class.

In In Re: Exide Corp. Sec. Litig., 98 CV 6006 (E.D. Mich.), Exide was charged with having altered its inventory accounting system to artificially inflate profits by reselling used, outdated, or unsuitable batteries as new ones. The Boston office, as co-lead counsel for the class, recovered more than \$10 million in cash for class members.

In In Re: Digital Lightwave Sec. Litig., 98-152-CIV-T-24C (M.D. Fla.), the Boston office acted as co-lead counsel and the Florida office acted as liaison counsel in negotiating a settlement that included changing company management and strengthening the company's internal financial controls so the company could be poised for a successful turnaround. In addition, the class received 1.8 million shares of freely tradable common stock that traded at just below \$4 per share when the court approved the settlement. At the time the shares were distributed to the members of the class, the stock traded at approximately \$100 per share and class members received more than 200% of their losses after the payment of attorneys' fees and expenses. The total value of the settlement, at the time of distribution to the class, was almost \$200 million.

The Florida office acted as co-lead counsel in Ehrenreich v. Witter, 95 CV 6637 (S.D. Fla.) involving Sensormatic Electronics Corp., which resulted in a settlement of \$53.5 million approved in 1998. It was one of the largest class-action settlements in the State of Florida.

In Hallet v. Li & Fung, Ltd., et al., 95 CIV 8917 (S.D.N.Y.) the company Cyrk Inc. was charged with misrepresenting its financial results and failing to disclose that its largest customer was ending its relationship with the company. In 1998, the Boston office successfully recovered more than \$13 million for defrauded investors.

In In Re: Valence Sec. Litig., 95-20459-JW (EAI) (N.D. Cal.), the California office served as co-lead counsel for the class litigating against a Silicon Valley-based company that overstated performance and development of an allegedly revolutionary battery technology. Following the Ninth Circuit's reversal of the District Court's granting summary judgment in defendants' favor, the case settled for \$30 million in Valence common stock.

Using a novel theory in In Re: Fidelity/Micron Sec. Litig., 95 Civ. 12676 (D. Mass.), Berman DeValerio & Pease recovered \$10 million in cash for Micron investors after a Fidelity Fund manager touted Micron while secretly selling the stock.

### Antitrust Settlements

Over the past two decades, Berman DeValerio has held leadership roles in scores of complex antitrust cases, negotiating substantial settlements for its clients. Among those results are the following:

The California office served as lead counsel in In Re: Sorbates Direct Purchaser Antitrust Litigation, Master File No. C 98-4886 CAL (N.D. Cal.), alleging that six manufacturers of sorbates, a food preservative, violated antitrust laws through participation in a worldwide conspiracy to fix prices and allocations to customers in the United States. The firm negotiated a partial settlement of \$82 million with four of the defendants in 2000. Following intensive pretrial litigation, the firm achieved a further \$14.5 million settlement with the two remaining defendants, Japanese manufacturers, in 2002. Total settlement achieved for the class was \$96.5 million.

Attorneys in the Florida office acted as co-lead counsel and chief trial counsel in In Re: Disposable Contact Lens Antitrust Litigation, MDL 1030 (M.D. Fla.). Representing both a national class and the State of Florida, the firm helped secure settlements from defendants Bausch & Lomb and the American Optometric Association before trial and from Johnson & Johnson after five weeks of trial. The settlements were valued at more than \$92 million and also included significant injunctive relief to make disposable contact lenses available at more discount outlets and at more competitive prices.

The California office negotiated a \$62 million settlement in In Re: Toys "R" Us Antitrust Litigation, MDL 1211 (E.D.N.Y.) to answer claims that the retailer violated laws by colluding to cut off or limit supplies of popular toys to stores that sold the products at lower prices. A component of the settlement included \$40 million worth of toys to needy children throughout the United States over a three-year period.

The California office served as co-lead counsel in In Re: Industrial Diamonds Antitrust Litigation, MDL-948 (WCC) (S.D.N.Y.) alleging General Electric and DeBeers conspired to fix, raise, and maintain the prices of industrial diamond products in violation of the federal antitrust laws. The action settled for a combined cash and coupon settlement valued at \$26 million.

The firm played a significant role in one of the largest antitrust settlements on record in a case that involved alleged price-fixing by more than 30 Nasdaq Market-Makers on about 6,000 Nasdaq-listed stocks over a four-year period. The settlement, one of the largest of its kind at the time, was valued at near \$1 billion.

Berman DeValerio attorneys also played a key role in obtaining a \$535 million agreement from Bristol-Myers Squibb Co. to partially settle claims that the drug company had illegally blocked generic competition for its anxiety medication, BuSpar.

In another case involving generic drug competition, Berman DeValerio, as co-lead counsel, helped secure an \$80 million settlement from French-German drug maker Aventis Pharmaceuticals and the Andrx Corporation of Florida. The payment to consumers, state agencies, and insurance companies settles claims that the companies conspired to prevent the marketing of a less expensive generic version of the blood pressure medication Cardizem CD. The state attorneys general of New York and Michigan joined that case in support of the class.

### LEADERSHIP ROLES

The firm has acted as lead or co-lead counsel in dozens of high profile cases, and has played an active role in some of the country's most prominent class actions. The following is a list of active cases where the firm is currently serving as lead or co-lead counsel for the class. This list does not include the numerous closed actions where the firm served as lead or co-lead counsel.

#### Securities Class Actions

- In Re: Abercrombie & Fitch Co. Securities Litigation, M21-83 (TPG) (S.D.N.Y.) – Member of the Executive Committee.
- In Re: Bristol-Myers Squibb Sec. Litigation, 02CV2251 (S.D.N.Y.) – Lead Counsel
- In re: Emex Corporation Securities Litigation, 01cv4886 (S.D.N.Y.) – Lead Counsel.
- In Re: FreeMarkets, Inc. Securities Litigation, 01cv0746 (DBS) (W.D. Pa.) – Lead Counsel.
- In re: GenesisIntermedia, Inc. Securities Litigation, 01cv9024 (C.D. Cal) – Co-lead Counsel.
- Hanley v. Warburg (Magma Copper), 96-390 (D. Ariz.) – Co-lead Counsel.
- Heartland High Yield Municipal Bond Fund et al., 00 C 1388 (JPS) (E.D. Wisc.) – Lead Counsel.
- In re: ICG Communications Inc. Securities Litigation, 00-CV-1864 (D. Colo.) – Co-lead Counsel.
- Kinder Morgan, Inc., Civil Action No. 00-N-516 (D. Colo.) – Co-lead Counsel.

- In Re: Lernout & Hauspie Products, N.V., Securities Litigation, 00-CV-11589 (PBS) (D. Mass.) – Co-lead Counsel.
- McKesson HBOC, Inc. Securities Litigation, 02-405792 (Cal. Sup. Ct.).
- In Re: MTI Technology Corp. Securities Litigation, II, Civil Action No. 8:00cv745 (DOC) (C.D. Cal.) – Co-lead Counsel.
- In Re: Nx Networks Securities Litigation (Rees Plaintiffs), 00-CV-11850 (JLT) (D. Mass.) – Co-lead Counsel.
- In Re: Pacific Gateway Exchange Inc. Securities Litigation, 3:00cv1211 (PJH) (N.D. Cal.) – Co-lead Counsel.
- In Re: Philip Services Corp Securities Litigation, 98cv835 (MBM) (S.D.N.Y.), 99-7825 (2d Cir.) – Co-lead Counsel.
- In Re: Reliant Sec. Litig., H-02-1810 (S.D. Tex.) – Co-lead Counsel.
- In Re: Service Corp. Int'l Securities Litigation, 4:99cv280 (LHH) (S.D. Tex.) – Member of Executive Committee.
- In Re: SmartForce PLC d/b/a SkillSoft Securities Litigation, 02-CV-544 (PJB) (D. N.H.) – Co-lead Counsel.
- In Re: Stone & Webster, Inc. Securities Litigation, 00cv10874 (RCL) (D. Mass.) – Member of the Executive Committee and Liaison Counsel.
- In Re: Symbol Technologies, Inc. Securities Litigation, 02-CV-1383 (LDW) (E.D.N.Y.) – Co-Lead Counsel.
- In Re: Technical Chemicals Securities Litigation, 98-7334 (S.D. Fla) – Co-Lead Counsel.
- In Re: Xcelera.com Securities Litigation, 1:00cv11649 (RWZ) (D. Mass.) – Co-lead Counsel.
- Carlson v. Xerox Corp., 3:00-CV-1621 (AWT) (D.Conn.) – Lead Counsel

**Antitrust Class Actions**

- In Re: Canadian Car Antitrust Litigation.
- In Re: SBC Communications, Inc. Antitrust Litigation, (Lead Case No. 3:02CV1617 (DJS), D. Conn.) and Syncro Services v. Bell Atlantic Corp. (02 civ. 7650 (SHS), S.D. N.Y.).
- In Re: Automotive Refinishing Paint Litigation, (JCCP4199, Superior Court of California, County of Alameda).
- Sample v. Monsanto et al. [Bioseeds Antitrust Litigation], (4:01cv00065RWS, E.D. Mo.).
- In Re: High Fructose Corn Syrup Antitrust Litigation, (95-1477, MDL No. 1087, C.D. Ill.).
- Samole v. Bayer Ag. et al. [Cipro Antitrust Litigation], (MDL1383, E.D. N.Y.).  
Koonan v. Barr Laboratories, Inc. [Tamoxifen Antitrust Litigation], (MDL 1408, E.D. N.Y.).
- Blevins v. Wyeth-Ayerst Laboratories, et al. [Premarin Antitrust Litigation], (CGC-01-324380, Superior Court of California, County of San Francisco).
- In Re: Neurontin Antitrust Litigation, (MDL1479, D. N.J.).
- In Re: Terazosin Hydrochloride Antitrust Litigation, [Hytrin], (99-MD-1317, S.D. Fla.).
- MC - UA Local 119 Health and Welfare Plan V. Glaxosmithkline, PLC et al. [Wellbutrin], (02-cv-4398, E.D. Pa.).



## TRIAL EXPERIENCE

The firm also has extensive experience in taking securities and antitrust class actions to trial. Over the years, its attorneys have gone to trial against pharmaceutical companies in New York and Boston, a railroad conglomerate in Delaware, one of the nation's largest trustee banks in Philadelphia, a major food retailer in St. Louis and the top officers of a failed New England bank. The firm also took an environmental products company to trial in Philadelphia and successfully argued the case before a federal appeals court.

The firm has been involved in more trials than most of the firms in the plaintiffs' class action bar. Our trial experience includes In Re: Disposable Contact Lens Antitrust Litigation, MDL 1030 (M.D. Fla.) (settled for \$60 million with defendant Johnson & Johnson after five weeks of trial); Hurley v. Federal Deposit Insurance Corp., 88 Civ. 1940 (D. Mass.) (bench verdict for plaintiffs); Howard Savings Bank, (\$3 million plaintiffs' verdict following four week trial); In Re: Equitec Sec. Litig., (\$35 million settlement at close of evidence following five month trial); In Re: ICN/Viratek Sec. Litig., 87 Civ. 4296 (S.D.N.Y.) (hung jury with 8-1 vote in favor of plaintiffs; the case settled for over \$14.5 million after the trial); In Re: Biogen Sec. Litig., 94 Civ. 12177 (D. Mass.) (verdict for defendants); Peil v. Speiser, No. 82-1289 (E.D. Pa. 1985) (securities fraud class action, verdict for defendants after six-week trial, Court of Appeals affirms but adopts "fraud-on-the-market" rule for Third Circuit securities cases); Kumpis v. Wetterau, No. 83-0362-(C3) (E.D. MO Dec. 1985) (securities fraud class action, case settled in mid-trial); Upp v. Mellon, No. 91-5219 (E.D. Pa. 1992) (bench trial, court finds for class of trust beneficiaries in suit against trustee bank and orders disgorgement of fees; Third Circuit later reversed based on lack of jurisdiction). The firm has the reputation and experience to take a case through verdict and appeal.



## PARTNERS

### Boston Office

#### **Glen DeValerio**

Glen DeValerio has prosecuted federal securities law violations, chiefly class and derivative actions, since the early 1970s. A 1969 graduate of the University of Rhode Island, he received his law degree in 1973 from the Catholic University Law School and served on the Catholic University Law Review's editorial board for two years. In 1973 and 1974, he worked as a law clerk to the Honorable June L. Green, U.S. District Court for the District of Columbia. Mr. DeValerio was admitted to the bar of the District of Columbia in 1974 and to the Massachusetts Bar in 1982. He has tried cases and argued before appellate and district courts in the District of Columbia, the District of Massachusetts, Delaware, and elsewhere, earning favorable judicial comment for his work.

Mr. DeValerio frequently lectures on complex securities litigation issues at continuing legal education seminars sponsored by groups like PLI, ALI-ABA, and the Boston Bar Association. He served as the President of the National Association of Securities and Commercial Law Attorneys (NASCAT) from 1996 through 1998.

#### **Norman Berman**

Since the creation of the firm in 1982, Norman Berman has focused his activities principally on the complex litigation of cases filed under the federal securities and antitrust laws. Mr. Berman has acted as trial counsel in a number of successful cases, including In Re: ICN Securities Litigation, which was settled after trial for more than \$14.5 million in 1996. The trial team's work prompted positive judicial comment.

Mr. Berman graduated from Boston University in 1970 and from Suffolk University Law School in 1974. He was admitted to practice law in Massachusetts and Connecticut in 1974.

#### **Peter A. Pease**

Since the mid-1970s, Peter A. Pease has been litigating cases under the federal antitrust laws, the federal securities laws, and state unfair trade practices laws. Mr. Pease is admitted to practice in Massachusetts, the U.S. District Courts of Massachusetts and the Eastern District of Michigan, and the U.S. Courts of Appeals for the First and Third Circuits. His effective and successful advocacy in courts throughout the nation has elicited favorable judicial comment.

Mr. Pease assisted in the prosecution of many prominent cases, including Bogosian v. Gulf Oil Corp. (trademark tying claims alleging conscious parallelism on the part of the major oil companies) and Salomon Brothers Treasury Litigation (monopolization and manipulation of the market for U.S. Treasury Securities). A 1972 graduate of Denver University and a 1976 graduate of Suffolk University Law School, Mr. Pease has written

and lectured in the franchise and antitrust fields. He also has served as an editor of the American Bar Association's Franchise Law Journal. Publications he has authored include "Franchisee and Dealer Terminations and Antitrust Exposure: Spray-Rite and Evidentiary Standards in the 80s," Vol. 3, No. 4, Journal of the American Bar Association Forum Committee on Franchising, Spring 1984.

#### **Jeffrey C. Block**

Jeffrey C. Block graduated *cum laude* from the State University of New York at Albany in 1983 and received his J.D. in 1986 from Brooklyn Law School, where he finished in the top 10 percent of his class. He was admitted to the New York Bar in 1987 and is also admitted to practice in Massachusetts. From 1987 to 1995, Mr. Block was associated with the New York law firm of Pomerantz Haudek Block Grossman & Gross, representing shareholders in securities class actions brought under the federal securities laws and in state court actions involving claims of breaches of fiduciary duties by corporate directors.

A partner at Berman DeValerio since 1997, Mr. Block has been one of the firm's lead attorneys on a number of cases, including In Re: Prison Realty Sec. Litig., one of the 10 largest settlements in securities class-action history, and In Re: Digital Lightwave Sec. Litig., in which the class received more than twice its certified losses after payment of attorneys' fees. He has also represented institutional clients in class actions alleging securities fraud at Xerox and Bristol-Myers Squibb.

#### **Kathleen M. Donovan-Maher**

Kathleen Donovan-Maher became a partner at the firm's Boston office in 1999 and focuses her work in Berman DeValerio's antitrust and securities practices. Ms. Donovan-Maher served as discovery captain in In Re: Nasdaq Antitrust Litigation and was a member of the trial team in In Re: ICN Securities Litigation, which settled for \$14.5 million when the jury deadlocked after a 1996 trial. Ms. Donovan-Maher graduated from Suffolk University in 1988, receiving a B.S. degree in Business Administration, *magna cum laude*, and earning an award for maintaining the highest grade point average among students with concentrations in Finance. She graduated from Suffolk University Law School three years later after serving for two years on the *Transnational Law Review*.

Ms. Donovan-Maher was admitted to the Massachusetts Bar in 1991, the United States District Court for the District of Massachusetts in 1992 and the United States Court of Appeals for the First Circuit in 1995. A frequent author on continuing legal education issues, Ms. Donovan-Maher is a member of Phi Delta Phi; Delta Mu Delta National Honor Society in Business Administration; and Omicron Delta Epsilon International Honor Society of Economics.

**Michael G. Lange**

Michael G. Lange became a partner with the firm in 1999. Until 1994, when he joined Berman DeValerio, he was a member of the defense bar as an attorney with Testa, Hurwitz & Thibault. Mr. Lange is a 1988 graduate of Swarthmore College, where he received his B.A. degree in Economics, *magna cum laude*. He graduated *cum laude* from Harvard Law School in 1991. He was admitted to the Massachusetts Bar in 1991 and the U.S. District Court for the District of Massachusetts in 1992. He is also admitted in the U.S. District Court of Colorado and the 1<sup>st</sup>, 3<sup>rd</sup> and 10<sup>th</sup> Circuit Courts of Appeal.

Mr. Lange has been involved in numerous class action cases on behalf of shareholders, insurance policyholders, and consumers. He was a member of the trial team in In Re: Biogen, Inc. Securities Litigation, the first securities class action tried in Massachusetts in nearly a decade. He was a co-chair and featured speaker for the February 2001 Class Action Litigation Summit in Washington, D.C., chair of the June 2001 MCLE Seminar "Class Action Practices in Massachusetts and Federal Court," and co-chair of the May 2002 BBA Seminar "The Life Cycle of a Class Action." He has spoken at investor conferences and serves as co-chair of the Boston Bar Association Class Action Committee. He is currently Vice President of the National Association of Shareholder and Consumer Attorneys (NASCAT), as well as a member of the Executive Committee, and previously served as the head of the media committee for the organization. He has written extensively on class action issues for professional and popular publications and has been quoted frequently in the national press.

**Michael T. Matraia**

Michael T. Matraia received a B.A. in Accounting, *cum laude*, from Assumption College in 1990. In 1996 he graduated, *magna cum laude*, from Suffolk University Law School. Mr. Matraia served on the editorial board of the Suffolk University Law Review and authored a note entitled, "Running for Cover Behind Presidential Immunity: The Oval Office as Safe Haven from Civil Suits," 29 Suffolk University L. Rev. 195 (1995). He was admitted to the Massachusetts Bar in 1996 and the New York Bar in 1997. Prior to joining Berman DeValerio in 1997, Mr. Matraia was associated with the Boston office of Robins, Kaplan, Miller & Ciresi L.L.P., where he practiced in the areas of business litigation and insurance coverage litigation. Mr. Matraia is also a Certified Public Accountant and worked as an auditor at a major public accounting firm before becoming an attorney. He was named a partner at the firm in 2003 and concentrates his practice on securities litigation, with an emphasis on accounting fraud and accountants' liability.

**Leslie R. Stern**

Leslie R. Stern earned a B.S. degree in Finance from American University in 1991 and graduated, *cum laude*, from Suffolk University Law School in 1995. While at Suffolk, Ms. Stern served on the *Suffolk University Law Review*'s editorial board and authored three publications. She was admitted to the Massachusetts Bar in 1995. Before joining the firm, Ms. Stern practiced general civil litigation. She became associated with Berman DeValerio in 1998 and was named partner in 2003. Ms. Stern focuses her practice on securities litigation.

### **San Francisco Office**

#### **Joseph J. Tabacco, Jr.**

The managing partner of the firm's San Francisco office, Mr. Tabacco has actively litigated antitrust, securities fraud, commercial high tech, and intellectual property matters since the 1970s. He is a member of the bar in California, where he began his legal career, and is also a member in good standing of the bars of New York, Massachusetts, and the District of Columbia. Since entering private practice in the 1980s, Mr. Tabacco has served as trial or lead counsel in numerous antitrust and securities cases and has been involved in all aspects of state and federal securities and antitrust litigation.

Until 1981, he served as senior trial attorney for the U.S. Department of Justice, Antitrust Division, in both the Central District of California and the Southern District of New York. In that capacity, he had major responsibility for several criminal and civil matters including the antitrust trial of the U.S. v. IBM. He is a former teaching fellow of the Attorney General's Advocacy Institute in Washington, D.C., and has served on the faculty of ALI-ABA on programs about U.S.-Canadian business litigation and trial of complex securities cases. Author of numerous articles on securities and antitrust law issues, he is a member of the Advisory Board of the Institute for Consumer Antitrust Studies at Loyola University Chicago School of Law.

#### **Christopher T. Heffelfinger**

Christopher T. Heffelfinger is a 1984 graduate of the University of San Francisco School of Law, where he was a member of the law review. He graduated from Claremont Men's College in 1977 with a B.A. in Economics. He has an AV rating from Martindale-Hubbell. He specializes in corporate, securities, derivative and antitrust litigation, and has acted as a principal attorney in a number of such cases. Prior to joining the firm, he was associated with the San Francisco firm of Gold & Bennett from 1990 to 1994, where he practiced securities and bankruptcy litigation. Before that, he practiced securities litigation and bankruptcy law for five years with a small firm in Marin County with an emphasis on Chapter 11 reorganizations, representing both debtors and creditors. He has litigated securities cases involving real estate limited partnerships, the mortgage banking and insurance industries, and companies engaged in the high-tech arena where the allegations involved both non-disclosed product problems and accounting fraud issues.

Mr. Heffelfinger has also lectured on discovery as a panelist in the Federal Court Northern District of California Practice Program. In addition, he served as a Captain (infantry) in the U.S. Marine Corps from 1990-1991, when he was recalled to active duty in support of Operations Desert Shield/Storm.

#### **Nicole Lavallee**

Nicole Lavallee is a 1989 graduate of the French Civil Law School at Université de Montréal in Canada. In 1991, she was admitted to the Quebec Bar (currently inactive) and obtained her Common Law degree from Osgoode Hall Law School in Toronto. After

graduating from Osgoode, Ms. Lavallee worked for the Toronto firm of McDonald & Hayden where she co-authored two feature articles in *Foreign Investment in Canada: A Guide to the Law*: "Protecting Our Struggling Artists: The Canadian Content Rules in Radio Broadcasting" and "An Analysis of Social Democratic Corporate Phobia in Canada."

Ms. Lavallee joined the firm shortly after being admitted to the California Bar in 1993 and was elevated to partner in 2002. She currently practices complex litigation including securities, corporate, and environmental litigation. Ms. Lavallee is fluent in French.

#### **Sharon T. Maier**

Sharon T. Maier joined Berman DeValerio's San Francisco office in 2001 and concentrates her activities in the firm's antitrust law practice. She graduated from the University of South Carolina in 1971 and received her J.D., *magna cum laude*, from the University of San Diego in 1989, where she was lead articles editor of *San Diego Law Review*. Admitted to the State Bar of California in 1989 and to the District of Columbia Bar in 1992, she has been a member of the San Diego County, Federal, and American Bar Associations, as well as the Enright Inn of Court and California Women Lawyers.

From 1997 to 1999, she served on the Board of Governors of Consumer Attorneys of California. She has co-chaired the Rule 23 subcommittee of the ABA Litigation Section's Committee on Class Actions and Derivative suits and is on the faculty of the 2001 National Class Action Institute. She has written and lectured widely on Rule 23 and on discovery of electronic evidence in complex litigation. Before joining Berman DeValerio, she was a partner with the law firm of Milberg Weiss Bershad Hynes and Lerach, LLP.

#### **West Palm Beach Office**

##### **C. Oliver Burt, III**

C. Oliver Burt, a partner in the West Palm Beach office, launched his legal career with a major Philadelphia law firm. In 1971, he began prosecuting white-collar criminal cases as an assistant U.S. attorney for the Eastern District of Pennsylvania and, two years later, was appointed chief of the Civil Division of the United States Attorney's Office. He later returned to private practice in Philadelphia, focusing primarily on antitrust, unfair competition, and securities cases. He also briefly served as a special assistant U.S. attorney.

Mr. Burt has extensive litigation experience. He was trial co-counsel for plaintiffs in *Peil v. Speiser*, and argued the appeal. In its landmark opinion in that case, the Third Circuit adopted the "fraud-on-the-market" presumption of reliance as the law of the Circuit. Mr. Burt also argued numerous appeals in class action cases in the Third, Eighth, and Eleventh Circuits and in the Delaware Supreme Court. He is a member of the Florida and Pennsylvania Bars and is admitted to practice before the Supreme Court of the United States. Mr. Burt graduated from Swarthmore College in 1964 and from the Law School of the University of Pennsylvania in 1967.



**Michael J. Pucillo**

Michael J. Pucillo is the managing partner of the firm's West Palm Beach office. A member of the Florida Bar since 1978, he is admitted to practice before the United States Court of Appeals for the Fifth and Eleventh Circuits, and the United States District Courts for the Southern and Middle Districts of Florida and the District of Arizona. He has been active in numerous class actions and shareholder derivative actions throughout the United States since 1989. He acted as sole lead counsel in In Re: UCAR International, Inc. Securities Litigation, Case No. 98-CV-0600-JBA (D. Conn.), an action in which the Florida State Board of Administration was the lead plaintiff. That action settled in 2000 for a \$40 million cash payment and the right to appoint a new member to UCAR's Board of Directors, one of the first times such significant corporate governance relief was achieved as part of a securities class action.

A graduate of Williams College (1975) and Georgetown University Law School (1978), Mr. Pucillo worked as law clerk to two federal judges before serving as an enforcement attorney with the U.S. Securities and Exchange Commission in Washington. Mr. Pucillo has lectured frequently on class actions and litigation. In 1994, he became a member of the faculty of the College of Advanced Judicial Studies ("AJS"), where he taught "Managing the Complex Civil Case" to Florida circuit court judges in 1994 and in 1996. He taught again at the 2002 AJS. A member of the Academy of Florida Trial Lawyers, he has lectured for the Academy on class actions and on recent developments in commercial and business tort litigation. He served as president of the Gold Coast Chapter of the Federal Bar Association during 1989-1990, and served from 1994 to 1997 as chairman of the Palm Beach County Bar Association Federal Court Practice Committee. He also appeared on the PBS Nightly Business Report on issues relating to investor fraud.

**Wendy H. Zoberman**

Wendy Zoberman is admitted to practice before the United States District Court for the Middle and Southern Districts of Florida, as well as all Florida State Courts. Ms. Zoberman is a 1981 graduate of Wellesley College, where she was a Durant Scholar, and was elected to the Phi Beta Kappa Society. She received her law degree from Columbia University in 1984. At Columbia she served as an Articles Editor of the Columbia University - Volunteer Lawyers for the Arts Journal of Art and the Law and is a co-author of "An Introduction to the New York Artists' Authorship Rights Act," appearing at Vol. 8, No. 3 Columbia - VLA Journal of Art and the Law 369.

Ms. Zoberman has practiced law in Florida since 1984, originally concentrating on First Amendment litigation and commercial litigation. Since 1990, Ms. Zoberman has prosecuted numerous securities class actions and shareholder derivative actions both throughout Florida and in other jurisdictions, including In Re: John Alden Financial Corp. Securities Litigation, Ehrenreich, et al. v. Sensormatic Electronics Corp. and In Re: Brothers Gourmet Coffees, Inc. Securities Litigation. She was also instrumental in the prosecution of In Re: UCAR International, Inc. Securities Litigation.